Chapter 4
Environmental Consultation, Review, and Permit Requirements

This chapter addresses Federal statutes, implementing regulations, and Executive Orders potentially applicable to the proposed project. Changes made to this chapter since the Preliminary EA are not shown because they merely reflect updates and progress in permitting and consultation. This Environmental Assessment (EA) will be sent to Tribes, Federal agencies, and state and local governments as part of the consultation process for this project.

4.1 NATIONAL ENVIRONMENTAL POLICY ACT

BPA prepared this EA pursuant to regulations implementing the National Environmental Policy Act (NEPA) (42 USC 4321 et seq.), which requires Federal agencies to assess the impacts that their actions may have on the environment. NEPA requires preparation of an Environmental Impact Statement (EIS) for major Federal actions significantly affecting the quality of the human environment. BPA prepared this Preliminary EA to determine if the proposed action would create any significant environmental impacts that would warrant preparing an EIS.

4.2 THREATENED AND ENDANGERED SPECIES AND CRITICAL HABITAT

The Endangered Species Act of 1973 (ESA, 16 USC 1536) as amended in 1988, establishes a national program for the conservation of threatened and endangered species of fish, wildlife and plants, and the preservation of the ecosystems on which they depend. The ESA is administered by the USFWS and, for salmon and other marine species, by NOAA Fisheries.

Section 7(a) of the ESA requires Federal agencies to ensure that the actions they authorize, fund, and carry out do not jeopardize endangered or threatened species or their critical habitats. Section (7c) of the ESA and other Federal regulations require that Federal agencies prepare biological assessments addressing the potential effects of major construction actions on listed or proposed endangered species and critical habitats.

BPA asked the USFWS to identify the listed and proposed species that are either known to occur or have the potential to occur in the project area. The USFWS responded on February 20, 2002 that the bald eagle, bull trout, marbled murrelet, and northern spotted owl, all threatened species, should be addressed. BPA requested an update of the species list on December 23, 2002; no changes had been made. BPA checked the NOAA Fisheries website and determined there are no species administered by NOAA Fisheries in the project area.

BPA is consulting with the USFWS on the potential effects of the project on the identified threatened species. A Biological Evaluation (BE) was prepared addressing potential effects to the four listed species. The BE was submitted to USFWS in January 2003, requesting their concurrence with BPA's determination of effect to the four listed species and then amended in May, 2003, to include additional information requested by USFWS. The BE concluded that

implementation of the proposed Federal action would have the following effects on listed species, as explained below and in Section 3.5, **Fish and Wildlife**:

- **no effect** on bull trout,
- **may affect, but is not likely to adversely affect** bald eagles,
- **may adversely affect** marbled murrelets, and
- **may affect, but is not likely to adversely affect** northern spotted owls.

4.2.1 Bull trout

No bull trout are expected to be in the project area and therefore no bull trout habitat would be adversely affected. The only documented population of bull trout in proximity to the proposed project area is in the Grays Harbor/Chehalis River, and the only fish-bearing tributary to the Chehalis River that crosses the proposed project area is Mill Creek. However, all bull trout are blocked from the part of the creek in the proposed project area by a dam approximately 2.5 miles downstream. Any increase in sedimentation and turbidity would not be detectable 2.5 miles downstream from the project area, because standard erosion control measures would be implemented as part of the project SWPP Plan. Because construction activities and operation and maintenance are not expected to affect the behavior or habitat of bull trout, the proposed project would have no effect on bull trout.

4.2.2 Bald eagle

No known bald eagle nests or activity areas are in the project area. Six nests have been identified at least 1 mile from the nearest structures within the corridor. The proposed line would cross few areas that bald eagles use and would run primarily through forest. No known roosting trees would be removed. However, bald eagles may be present, because there are several places where home ranges could overlap the project area.

Construction-related noise, including helicopter use, could cause bald eagles to temporarily avoid the vicinity of active construction areas. Since much of the proposed project is adjacent to Highway 101, any bald eagles in the vicinity would likely be accustomed to higher ambient noise levels because the highway is heavily used by logging vehicles and other heavy equipment. Restricting use of helicopters until after September 15 would avoid potential noise during periods when eagles are most sensitive to disturbance (February 1 to mid-April). Because most construction would be completed by October 31, impacts to eagles that use the area during the November 15 to March 15 wintering period would be limited.

Because the proposed project involves replacing an existing transmission line with a similar kind of line, the potential impact from collisions with the transmission line would be similar to existing conditions. Since eagle collisions with the existing line have not been documented in the past, and there are no documented nesting or wintering areas within a mile of the transmission line, it is unlikely that the presence of the new line would create increased potential for adverse effects from collisions.

Because bald eagles may temporarily avoid construction areas, the project **may affect, but is not likely to adversely affect** bald eagles.

4.2.3 Marbled murrelet

There are 2 known occupied marbled murrelet stands immediately adjacent to the ROW and 15 other potential habitat stands, some immediately adjacent to the ROW and others within ¼ mile of the ROW (3 of the stands were logged by private timber companies in 2003). Because surveys to detect marbled murrelets were not completed in the 15 potential habitat stands, it was assumed for the purposes of the BE that they are occupied. There are no designated critical habitat units in or adjacent to the proposed project area, and the closest unit is located approximately 3.5 miles south of the Raymond Substation.

There would be direct effects to some marbled murrelet habitat resulting from tree removal in or directly adjacent to known habitat. Four red alders would be removed at the edge of a potential habitat stand, but these trees are not suitable nesting trees. The trees would not be removed until after the core breeding season (August 5), limiting potential effects. Due to the high ambient noise levels along Highway 101, the low quality habitat, and the habitat's accessibility to predators, removal of these trees would not adversely affect the quality of the remaining habitat.

About 50 trees, one hemlock and the rest red alder (with two 16 inch diameter stems), would be removed at the edge of one other potential habitat stand, immediately adjacent to Highway 101. Removal of these trees may increase the amount of insolation to potential nesting trees (which could overheat chicks) and allow access for predators; however, because marbled murrelets are notoriously clumsy fliers, it could also be beneficial by allowing marbled murrelets easier access to this potential habitat. The trees would not be removed until after September 15; therefore, there would be no effect on marbled murrelets during the breeding season. Removal of these trees would not likely significantly affect the quality of the remaining marbled murrelet habitat.

Some tree limbs would be removed at an occupied marbled murrelet stand because they hang into the existing ROW where the new conductor would be located. The nest trees would not be removed—only the portion of the limb that extends into the ROW. The loss of limbs and the increased exposure of the remaining habitat areas to sunlight could adversely affect the quality of the remaining habitat. Effects would be limited because the work would be done after September 15.

Road improvements would be conducted immediately adjacent to an occupied marbled murrelet stand during the late breeding season, in order to conduct instream work during the instream work period. This site is in a state park and experiences high ambient noise levels from heavy summer use. Therefore, with noise restrictions as described below, road work is not likely to significantly adversely affect any nesting marbled murrelets in the adjacent habitat.

Noise restrictions would be implemented during the breeding season to further minimize the impact of noise on nesting marbled murrelets. No structures would be removed or erected within 75 yards of documented occupied habitat polygons until after September 15 (end of breeding season). Work within 0.25 mile of all known or potential marbled murrelet habitat would be prohibited each day for a period from 2 hours before sunset until 2 hours after sunrise during the early and late breeding season. Helicopters would not be used until after September 15 in all areas. Even with these restrictions and the high ambient noise generated by Highway 101, **the project may adversely affect marbled murrelets**.

4.2.4 Northern Spotted Owl

The proposed project would not destroy nesting habitat because no large trees suitable for nesting would be removed; however, some trees suitable for perching may be cut. The proposed project would briefly increase noise at the project site, possibly causing owls to temporarily avoid areas in the vicinity of active construction. Although construction would not be timed to avoid periods of nesting activities (March 1 through September 30), there is no designated critical habitat within the action area. Any northern spotted owls in the vicinity would likely be accustomed to higher ambient noise levels due to the proximity of Highway 101 and would be less affected by construction noise. Helicopter use would be restricted until after September 15, thus avoiding the critical nesting and fledging period. Overall, northern spotted owl habitat conditions would be maintained in the project area, and the project would not significantly degrade habitat. Therefore, the proposed project **may affect, but is not likely to adversely affect** northern spotted owls or their habitat.

Impacts to listed species could occur from some subsequent operation and maintenance activities. Noise impacts from on the ground (vehicle) surveys of the line during operation and maintenance of the proposed project would be negligible. Noise impacts from helicopter use would be a moderate impact. Three times a year, generally in March, July, and October, a helicopter would fly the line to look for any problems or repair needs and vehicles would visit portions of the line. The July flight could impact marbled murrelet during the early breeding season and all flights could disturb spotted owl or eagles using the project area.

BPA has not received the Biological Opinion from USFWS as of August 7, 2003. The Terms and Conditions in the Biological Opinion will be followed.

4.2.5 State-Listed Species on State Lands

BPA addresses potential impacts to state-listed and sensitive species on state land. The project corridor crosses a parcel owned by the Washington DNR that includes the Butte Creek Picnic Area. The Washington Natural Heritage Program and the state botanist reported no known state-listed rare plants in this parcel; nor were any encountered during field surveys by a BPA environmental specialist who surveyed the site in April and July, 2002, or by MCS Environmental on September 4 and 5, 2002.

4.3 FISH AND WILDLIFE

4.3.1 Fish and Wildlife Conservation

The Fish and Wildlife Conservation Act of 1980 (16USC 2901 et seq.) encourages Federal agencies to conserve and promote conservation of non-game fish and wildlife and their habitats. In addition, the Fish and Wildlife Coordination Act (16 USC 661 et seq.) requires Federal agencies with projects affecting water resources to consult with the USFWS and the state agency responsible for fish and wildlife resources. The analysis in Section 3.5, **Fish and Wildlife**, indicates that the alternatives would have no impact to moderate impacts on fish and wildlife.

BPA is coordinating with the WDFW Area Habitat Biologist concerning all actions with the potential to affect fish and wildlife. The following site visits were made with a WDFW biologist:

- In the summer of 2002, the WDFW habitat biologist, and a road engineer and an environmental specialist from BPA, visited sites where instream work would be done.
- On March 5, 2003, the WDFW area habitat biologist met with BPA's project manager and environmental specialist to look at project actions that could affect fish habitat, and to discuss appropriate mitigation.
- On April 9, 2003, the WDFW area habitat biologist, WDFW marbled murrelet specialist, the DNR representative, and USFWS personnel met with the BPA design engineer, wildlife biologist, and environmental specialist at a known marbled murrelet occupied site to discuss how project actions could effect the habitat and ways to minimize impacts.

The WDFW biologist participated in approval of all instream work through the state's Hydraulic Project Approval process. The WDFW area habitat biologist and marbled murrelet specialist were sent the BE (see Section 4.2) and the WDFW area habitat biologist was sent the Essential Fish Habitat Assessment (see Section 4.3.1) in early February, 2003, for review and comment.

4.3.2 Essential Fish Habitat

Public Law 104-297, the Sustainable Fisheries Act of 1996, amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under Section 305(b)(4) of the Act, BPA is required to consult with NOAA Fisheries for actions that adversely affect Essential Fish Habitat; NOAA Fisheries in turn is required to provide Essential Fish Habitat conservation and enhancement recommendations.

Both chinook and coho salmon, which are administered under the amended Magnuson-Stevens Fishery Conservation and Management Act, are found in the vicinity of the proposed project. Essential Fish Habitat for these species may be found in Butte, Elkhorn, Lower Salmon, and Joe creeks, the North and Little North rivers, and other unnamed tributaries that cross or flow adjacent to the project corridor. Because this project has the potential to adversely affect Essential Fish Habitat, an assessment of Essential Fish Habitat was submitted to NOAA Fisheries on February 3, 2003.

BPA received a response from NOAA Fisheries on March 27, 2003, stating that the proposed mitigation is adequate, but also recommending as a conservation measure that the instream work be conducted in July or August. BPA responded by letter on April 29, 2003, stating that, although we cannot guarantee that the work would be completed in August, we would follow the instream dates in the Hydraulic Project Approval, as recommended by the WDFW area habitat biologist. The April 29th letter from BPA also included information on the additional tree cutting that is proposed near waterways. NOAA Fisheries responded on May 5, 2003, and stated that they amended the project file, conservation measures are adequate, and there was no need to reinitiate consultation.

4.3.3 Migratory Bird Treaty Act

The Migratory Bird Treaty Act implements various treaties and conventions between the United States and other countries, including Canada, Japan, Mexico, and the former Soviet Union, for the protection of migratory birds (16 U.S.C. 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986, and 1989). Under the Act, taking, killing, or possessing migratory birds, or their eggs or nests, is unlawful. The Act classifies most species of birds as migratory, except for upland and nonnative birds such as pheasant, chukar, gray partridge, house sparrow, European starling, and rock dove.

The proposed project may affect birds. Potential impacts, such as the loss of habitat, are discussed in Section 3.5, **Fish and Wildlife**.

Operation of the transmission line could result in the injury or death of birds caused by collisions with the transmission line. Collisions typically occur in locations where conditions combine to create a high potential for birds striking lines (Avian Power Line Interaction Committee, 1994). Three factors contribute to this potential: the type of power lines, the amount of use of the area by birds, and the inherent tendency of a species to collide with overhead wires. Since bird collisions with the existing line have not been documented in the past and no unusual circumstances exist that would increase the likelihood of collisions, it is unlikely that the new line would have any such impact on birds.

4.3.4 Bald Eagle and Golden Eagle Protection Act

The Bald Eagle Protection Act prohibits the taking or possessing of and commerce in bald and golden eagles, with limited exceptions (16 U.S.C. 668-668d, June 8, 1940, as amended 1959, 1962, 1972, and 1978). Because a small number of bald eagles reside within foraging distance of the proposed project, there is a remote possibility some bald eagles could die after hitting structures or conductors. However, as discussed in Sections 3.5 and 4.2, this effect is unlikely.

Because the Act covers only intentional acts, or acts in "wanton disregard" of the safety of bald or golden eagles, this project is not considered to be subject to its compliance because any impacts would not be intentional or result from disregard.

4.3.5 Responsibilities of Federal Agencies to Protect Migratory Birds

Executive Order 13186 directs each Federal agency that is taking actions that may negatively impact migratory bird populations to work with the USFWS to develop an agreement to conserve those birds. The protocols developed by this consultation are intended to guide future agency regulatory actions and policy decisions; renewal of permits, contracts, or other agreements; and the creation of or revisions to land management plans. BPA, an agency of the U.S. Department of Energy, is cooperating with the Department in developing a memorandum of understanding with the USFWS to comply with this mandate.

Construction, operation, and maintenance of the proposed project would result in low impacts to migratory birds, due to loss of habitat or direct mortality, as discussed in Section 3.5, **Fish and Wildlife**.

4.4 CULTURAL AND HISTORICAL RESOURCES

A cultural resource is an object, structure, building, site or district that provides irreplaceable evidence of natural or human history of national, state, or local significance, such as National Landmarks, archeological sites, and properties listed (or eligible for listing) on the National Register of Historic Places (NRHP). Regulations established for the management of cultural resources include:

- Antiquities Act of 1906 (16 U.S.C. 431-433)
- Historic Sites Act of 1935 (16 U.S.C. 461-467)
- Section 106 of the National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470 et seq.), as amended
- Archaeological Data Preservation Act (ADPA) of 1974 (16 U.S.C. 469 a-c)
- Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470 et seq.), as amended
- Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.)
- Executive Order 13007 Indian Sacred Sites.

Four cultural resources investigations of the project area were conducted in 2002. The investigations consisted of background research and archaeological field studies that included pedestrian surveys at locations that would be disturbed. Shovel test pit excavations were completed at sites with the potential to contain archeological resources. The Washington State Office of Archeology and Historic Preservation (OAHP) and eight Tribes were provided the methodology for each of these surveys and given an opportunity to comment. No comments on methodology were received.

Based on the survey findings, significant archaeological resources were not found and are unlikely to be located within the project area for the proposed rebuild project (see Section 3.12, **Cultural Resources**). On December 18, 2002, BPA submitted the cultural resources report on the Rebuild Project to OAHP requesting concurrence with the determination that no historic properties would be affected. BPA received concurrence from OAHP on December 27, 2002. The report was submitted to the eight Tribes with an interest in the project on January 6, 2003. The Quinault Nation responded on January 14, 2003, that they concur with BPA's determination. Tribes that had not responded were contacted in April, 2003, to determine if they concur and they did not provide any additional comments.

4.5 STATE, AREAWIDE, AND LOCAL PLAN AND PROGRAM CONSISTENCY

BPA, as a Federal agency, is not required to comply with the requirements associated with obtaining state and local land-use approvals or permits because Congress has not waived Federal supremacy over these areas. Furthermore, as a Federal agency, BPA only obtains those state and local permits for which Congress has clearly and unambiguously waived sovereign immunity. However, BPA does, to the maximum extent practical, strive to meet or exceed the substantive standards and policies of the following environmental regulations.

4.5.1 Land Use Planning Framework

Land use plans and policies guide development within Pacific County, Grays Harbor County, and the City of Cosmopolis.

- Pacific County's Comprehensive Land Use Plan was adopted in October 1998, and the Land Development/Use Ordinance, December, 2001. Within Pacific County, the corridor is zoned as rural residential land. The County's code does not specifically address utility corridors.
- Grays Harbor County's Comprehensive Zoning Ordinance was adopted in December, 2001. The County has a Comprehensive Plan that does not include the project area. The County anticipates completing this section of the Comprehensive Plan sometime in 2003. Within Grays Harbor County, the corridor is designated General Development by a land use map. The zoning is General Development 5 District (G-5). This zone allows dams, electrical power plants, flowage areas, transmission lines, and substations together with necessary accessory buildings.
- The City of Cosmopolis has a Comprehensive Plan that was revised in 2002, and a zoning code that was revised in 2001. The Cosmopolis Substation is located on land designated and zoned Mixed-Use (MU). The City's Comprehensive Plan and Zoning do not specifically address utility corridors.

The proposed project would be consistent with these land use plans and zoning ordinances.

4.5.2 Washington Growth Management Act

This 1990 Act requires that most counties and cities in Washington adopt comprehensive plans, including "a utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines." The 1991 and subsequent amendments to the Act added more planning requirements. None of the jurisdictions noted above have adopted comprehensive plans under the Growth Management Act.

4.5.3 Washington Shoreline Management Act

The State's Shoreline Management Act (Chapter 90.58 RCW) identifies "Shorelines of the State" and "Shorelines of Statewide Significance" that would be spanned by the proposed project. The right-of-way (ROW) crosses the following streams designated "Shorelines of the State" (WAC 173-18): the Little North River, Lower Salmon Creek, and North River in Grays Harbor County; Elkhorn Creek and Smith Creek in Pacific County. Some structures would need to be placed within 200 feet of the shores of Smith, Elkhorn, and Lower Salmon creeks, the North River, and the Little North River and thus would fall under the jurisdiction of the Shoreline Management Act.

BPA would take the following measures, where practicable, to assure consistency with the counties' Shoreline Master Plans:

- Structures near Shorelines of the State would be placed in an existing corridor
- Structures would not be in water bodies

- In one portion of the line, structures would be moved away from the banks of the Little North River to minimize impacts
- In shoreline areas, disturbed land would be restored as closely as possible to pre-project forms and reseeded with native species
- Erosion control measures would be implemented to protect the 200-foot shoreline area.

Other mitigation measures that would protect shorelines are listed in Section 3.6, **Water Quality**, and Section 3.5, **Fish and Wildlife**.

A letter describing shoreline area impacts was sent to Pacific County, Grays Harbor County, and WDOE, on March 11, 2003. Both counties requested a meeting with BPA to discuss the project and meetings were held in June. As a result of the meeting, BPA provided additional information on project activities, in July to Grays Harbor County and in August to Pacific County. The response from the counties will be sent to WDOE to assist the state in making the Consistency Determination under the Coastal Zone Management Act (see Section 4.7).

4.5.4 Critical Areas Ordinances

The Growth Management Act (GMA) requires that all local jurisdictions designate and protect critical areas, which are defined as wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. Pacific County and the City of Cosmopolis have adopted ordinances and plans protecting critical areas, but Grays Harbor County has not. In most cases, the proposed action would be consistent with the provisions of these ordinances and plans because BPA would avoid critical areas and critical area buffers to the maximum extent possible. BPA submitted a detailed project description to Pacific and Grays Harbor counties in March, 2003, and requested comments on the proposal.

BPA received an e-mail from a Pacific County Planner on April 24, 2003, stating, "Based upon my review, it appears that BPA will need to obtain permit approvals from Pacific County as several of the proposed transmission line structures will either be located within wetlands, or within wetland buffers regulated by Pacific County's Critical Areas and Resource Lands Ordinance." BPA met with Pacific County Planner, Mr. Mike Stevens, on June 24, 2003, to discuss wetland impacts and Mr. Stevens requested that BPA document the extent of impacts to wetlands and buffers and also "credits" that would result from removing structures currently in wetlands. This information was submitted to Pacific County, who will determine if a permit and mitigation is required, but it is unlikely because there are slightly more wetland "credits" than impacts.

4.5.5 Washington Administrative Code

The proposed rebuild of the transmission line roughly follows Highway 101, sections of which are considered to have scenic value. The following provisions of the Washington Administrative Code are relevant to the proposed project.

WAC 468-34-280 Overhead Power and Communication Lines

This section of the WAC recommends that longitudinal installations of power lines (on public rights-of-way) be of single-pole construction, and that joint-use single pole construction is

generally desirable and should be used whenever feasible. The proposed project's design calls for the rebuilt line to be supported by modular steel pole structures; thus it is consistent with this section of the WAC.

WAC 468-34-290 and 468-34-300 Vertical Clearance and Location

These sections require that vertical clearances for overhead power lines conform to the National Electric Safety Code and/or the clearances identified in the WAC, whichever are greater. The minimum clearances specified for 115-kV transmission lines are 32 feet above the groundline, including roadways. The code also specifies that utility lines be located as near as practicable to the edge of the ROW while still maintaining a reasonably uniform alignment. The proposed project would conform to the minimum clearances, as required by the National Electric Safety Code, and is located as close to the ROW edge as practicable.

WAC 468-34-330 Scenic Enhancements

The Washington Department of Transportation has designated portions of Highway 101 in the vicinity of the proposed project as BX. The BX classification covers Highway 101 between Mile Posts 66.2 to 70.9 and 77.0 to 78.5. A number of structures are within this classification near the roadway. According to this section of the WAC:

(1) ...Aerial facilities may be allowed (in this zone) if found acceptable to the department based on design and/or location which will not detract from scenic values typical of those found in Class A and B.

(2) Special exceptions may be made where one or more of the following conditions exist:

Power lines of voltage in excess of 35-kV, special design should be incorporated to minimize the visual impact of the facility.

Other utility locations are not available, are unusually difficult and unreasonably costly, or are more desirable from the standpoint of visual quality.

The placing of the utility underground is not technically feasible or is unreasonably costly.

The impact of the required under grounding adversely affects the utility consumer rates or the long-term economics of the utility.

The proposed project is a rebuild of an existing 115-kV line, which is in excess of 35-kV. The existing lattice steel box structures would be replaced with modular steel poles that would be oxidized to blend more readily with the landscape. The conductors would be non-reflective to reduce light and glare from the transmission line in sunlit conditions. Undergrounding the transmission line is not feasible, due mainly to the cost of construction and the cost and difficulties of maintaining an underground line. BPA therefore conforms to the requirements of WAC 468-34-330, or meets the special exceptions.

4.5.6 Transportation Permits

The construction contractor and transmission line facilities manufacturers would consult with WSDOT and with City and County public works departments to secure necessary permits for the

transportation of large loads on the roadways. BPA engineers and surveyors have consulted with WSDOT concerning activities within the Highway 101 control zone.

4.6 WASHINGTON FOREST PRACTICES ACT

The Washington Forest Practices Act (FPA) and Forest Practices Rules and Regulations are the state's principal means of regulating activities on non-Federal forestlands. The FPA rules and regulations are administered by DNR. The Forest Practices Act does not apply to Federal agencies on non-Federal land, therefore BPA would not obtain a FPA permit from the state. BPA will attempt to comply with the FPA where possible and has incorporated many of the BMPs described in the FPA into its proposal. In addition, as required under the FPA, BPA will consult with WDFW to protect critical habitats including riparian areas, wetlands, and habitat for the spotted owl and marbled murrelet. BPA will notify DNR of tree removal activities to meet the terms of an agreement made between DNR and BPA in 2002.

4.7 COASTAL ZONE MANAGEMENT ACT CONSISTENCY

As an agency of the Federal government, BPA follows the guidelines of the Coastal Zone Management Act of 1972 (CZMA) (16 U.S.C. Sections 1451-1464) and would ensure that projects are, to the maximum extent practicable, consistent with the enforceable policies of the state management programs. Because the proposed project is within Washington's Coastal Zone, which includes both Pacific and Grays Harbor counties, BPA is subject to the coordination and consistency requirements of the Act. The State of Washington has an approved Coastal Zone Management Program, which is implemented by the state Department of Ecology (WDOE). The CZMA requires that "each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs" (16 U.S.C. 1456c(1)(A)). These policies include the Shoreline Management Act and state air and water quality requirements.

BPA believes that the proposed project is consistent to the maximum extent practicable with Washington's Coastal Zone Management Program. BPA submitted a consistency statement to WDOE in March 11, 2003, including a detailed project description, and requested its concurrence. The response from the counties will assist WDOE in making the Consistency Determination under the Coastal Zone Management Act (see Section 4.7).

4.8 AIR QUALITY

The Federal Clean Air Act, as revised in 1990 (PL 101-542 (42 USC 7401), requires the EPA and individual states to carry out a wide range of regulatory programs intended to assure attainment of the National Ambient Air Quality Standards. In the State of Washington, EPA has delegated authority to the WDOE, which in most areas has delegated authority to local air pollution control agencies. Each of those agencies has regulations requiring all industrial activities (including construction projects) to minimize windblown fugitive dust. Water trucks would be used to minimize fugitive dust during project construction.

There would be very little burning of cleared material, if any, due to the small amount of land where tree removal would take place. Vehicles used during construction of the proposed project would be maintained so as to minimize emissions.

4.9 FLOODPLAINS AND WETLANDS PROTECTION

The U.S. Department of Energy mandates that impacts to floodplains and wetlands be assessed and alternatives for protection of these resources be evaluated in accordance with Compliance with Floodplain/Wetlands Environmental Review Requirements (10 CFR 1022.12), and Federal Executive Orders 11988 and 11990.

Wetland management, regulation, and protection is addressed in several sections of the Clean Water Act, including Sections 401, 402, and 404, as well as to a combination of other state and Federal laws. Other laws include the Coastal Zone Management Act, the critical areas ordinances of local governments, the Endangered Species Act, Historic Preservation Act, Rivers and Harbors Act, and the Wild and Scenic Rivers Act.

The Notice of Floodplain and Wetlands Involvement for the Rebuild Project was published in the Federal Register on January 14, 2003 (Volume 68, Number 9, pages 1828-1829). This notice described potential impacts to floodplains and wetlands. Evaluation of project impacts on floodplains and wetlands are discussed briefly below and in more detail in Sections 3.7, **Wetlands**, and 3.8, **Floodplains**.

4.9.1 Wetlands

Numerous wetlands are found in the project area, but only a limited number would be impacted by activities in or near them. Twenty existing structures are within 50 feet of wetlands; of those, nine are in wetlands. Nineteen of the proposed structures would be within 50 feet of wetlands, only two of which would be in wetlands. The impact on wetlands from removing existing structures would be low. Structures in wetlands would be cut at the base with no soil disturbance and lifted or dragged from the wetland area.

Impacts on wetlands from installing new structures *in* wetlands and construction or improvement of access roads are expected to be low to moderate and mostly temporary. A total of approximately 0.30 acre of wetland would be temporarily filled and 0.018 acre of wetland would be permanently filled. Permanent impacts would result from two structures that would be constructed in wetlands, and a ford within a stream with adjacent wetlands. Temporary impacts would result from temporary access roads. Activities adjacent to wetlands could impair some wetland functions by degrading the quality of the wetland buffer. Operation and maintenance is expected to have a low impact on wetlands. Mitigation measures that would be implemented to minimize impacts to wetlands are discussed in Section 3.7.3, **Wetlands**.

4.9.2 Floodplains

Floodplains of Lower Salmon Creek, the North River, and the Little North River are near or within the ROW. Construction activities within floodplain areas would be temporary and localized, only minimally altering floodplain functions. Impacts from structure removal and

installation are expected to be low to moderate. Six existing structures within or on the boundaries of floodplains would be removed; two of these structures would be relocated outside the floodplain (See Table 3-4 in Section 3.8.2, **Floodplains**). The primary direct impacts on floodplains are expected to result from soil compaction and removal of vegetation, leading to possible subsequent erosion. Drilling holes that would support new structures would result in the deposition of approximately 100 cubic yards of fill covering about 100 square feet. Indirect impacts on floodplains are expected to be low and limited to incidental amounts of sediment deposited in the floodplain due to soil erosion from construction activities near the floodplain. The amount of sediment deposited in floodplains would not change existing flood storage capacity or alter the course of floodwaters. Improvements to existing roads are expected have a low to moderate impact on floodplain functions because only limited road improvements are planned in and near floodplains (See Table 3-4 in Section 3.8.2). Operation and maintenance is expected to have a low impact on floodplains. Mitigation measures that would be implemented to minimize impacts to floodplains are discussed in Section 3.8.3.

4.10 PERMITS FOR DISCHARGES INTO WATERS OF THE UNITED STATES

The Clean Water Act (CWA) regulates discharges into waters of the United States. The various sections applicable to this project are discussed below.

4.10.1 Section 401

A Federal permit to conduct an activity that causes discharges into navigable waters is issued only after the affected state certifies that existing water quality standards would not be violated if the permit were issued. WDOE will review the project Joint Aquatic Resource Permit, which was submitted on March 28, 2003, for compliance. This review will take place once the Army Corps of Engineers (ACOE) completes its review for Section 404 compliance.

4.10.2 Section 402

This section authorizes storm water discharges under the National Pollutant Discharge Elimination System. The EPA, Region 10, has a general permit for Federal facilities for discharges from construction activities. BPA would issue a Notice of Intent to obtain coverage under the EPA general permit and is preparing a Storm Water Pollution Prevention Plan (SWPP) that will address stabilization practices, structural practices, stormwater management, and other controls (see Section 3.6, **Water Quality**).

4.10.3 Section 404

Authorization from the ACOE is required in accordance with the provisions of Section 404 of the CWA when there is a discharge of dredged or fill material into waters of the U.S., including wetlands. Impacts to wetlands are described in Section 3.7, **Wetlands**. A wetland determination and delineation located, described, and mapped all wetlands within the project area. Project engineers attempted to avoid wetlands in their design by moving proposed structures and access roads to uplands.

For all unavoidable impacts to wetlands, BPA applied for a Section 404 permit from the ACOE on March 28, 2003. Impacts would be 0.30 acre of temporarily filled wetland and 0.18 acre of permanently filled wetland. Some fill for temporary access roads to structures in wetlands will be removed and the areas restored. Several Nationwide Permits (33 CFR 330) may apply to different wetland impacts. If the project activities are covered under an existing Nationwide Permit, all conditions of the permit would be followed.

4.11 GLOBAL WARMING

Gases that absorb infrared radiation and prevent heat loss to space are called greenhouse gases. Greenhouse gases are thought to be connected to global warming and include water vapor, carbon dioxide, methane, nitrous oxide, nitrogen oxides, non-methane volatile organic compounds and stratospheric ozone-depleting substances such as chlorofluorocarbons. At a maximum, the proposed project would clear or disturb vegetation on about 50 acres, which could release up to 50 tons of carbon dioxide to the atmosphere primarily through decay. Some slash materials might be burnt, releasing additional carbon into the atmosphere. However, because most disturbed areas would be revegetated, the project's contribution to global warming would be temporary and negligible.

4.12 HAZARDOUS MATERIALS

Several pollution control acts apply to this project. The Spill Prevention Control and Countermeasures Act, Title III of the Superfund Amendments and Reauthorization Act, and the Resource Conservation and Recovery Act (RCRA) potentially apply to the proposed project, depending upon the exact quantities and types of hazardous materials stored on-site. Regulations would be enforced by WDOE. In addition, development of a Hazardous Materials Management Plan in accordance with the Uniform Fire Code may be required by local fire districts.

The Toxic Substances Control Act is intended to protect human health and the environment from toxic chemicals. Section 6 of the Act regulates the use, storage, and disposal of PCBs. BPA adopted guidelines to ensure that PCBs are not introduced into the environment. Equipment used for this project will not contain PCBs. Any equipment removed that may have PCBs will be handled according to the disposal provisions of this Act.

The Federal Insecticide, Fungicide and Rodenticide Act registers and regulates pesticides. BPA uses herbicides (a kind of pesticide) only in a limited fashion and under controlled circumstances. Herbicides are used on transmission line rights-of-way and in substation yards to control vegetation, including noxious weeds. When BPA uses herbicides, the date, dose, and chemical used are recorded and reported to state government officials. Herbicide containers are disposed of according to RCRA standards (see Section 4.14).

If a hazardous material, toxic substance, or petroleum product is discovered, and may pose an immediate threat to human health or the environment, BPA requires the contractor to notify the Contracting Officer's Technical Representative (COTR) immediately. Other conditions such as large dump sites, drums of unknown substances, suspicious odors, stained soil, etc. must also be reported immediately to the COTR. The COTR will coordinate with the appropriate personnel

within BPA. In addition, the contractor will not be allowed to disturb such conditions until the COTR has given the notice to proceed.

4.13 EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE

In February, 1994, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, was released to Federal agencies. This order states that Federal agencies shall identify and address as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income population. The project would not cause disproportionately high and adverse impacts on minority and low-income populations; see Section 3.11, **Socioeconomics**.

4.14 RESOURCE CONSERVATION AND RECOVERY ACT

The Resource Conservation and Recovery Act (RCRA), as amended, is designed to provide a program for managing and controlling hazardous waste by imposing requirements on generators and transporters of this waste, and on owners and operators of treatment, storage, and disposal (TSD) facilities. Each TSD facility owner or operator is required to have a permit issued by EPA or the state. Typical construction and maintenance activities in BPA's experience have generated small amounts of these hazardous wastes: solvents, pesticides, paint products, motor and lubricating oils, and cleaners. Small amounts of hazardous wastes may be generated by the proposed project. These materials would be disposed of according to state law and RCRA.

4.15 NOISE

The Federal Noise Control Act of 1972 (42 USC 4901) requires that Federal entities, such as BPA, comply with state and local noise requirements. Environmental noise limits relevant to this proposed project are regulated by WDOE's Maximum Environmental Noise Levels (WAC 1 73-60), which establish limits on levels and duration of noise. Allowable maximum sound levels depend on land use at the location of the noise source and the land use of the receiving property.

Nighttime noise limitations in residential neighborhoods are 50 dBA, in commercial areas 55 dBA, and in industrial areas 60 dBA (WAC 1 73-60-040-2b). BPA designs to a nighttime residential level of 50 dBA. Noise from electrical substations is exempt (WAC 1 73-60-050-2a). BPA imposes its own 50-dBA limit at substation boundaries. Sound created by the installation or repair of essential utility services are exempt from the sound level limits during daytime hours (WAC 1 73-60-050-le).

The proposed action would operate at or below existing state nighttime noise limits for residential property, commercial areas, and industrial areas (see Section 3.14, **Noise**). The facilities would be designed to meet these limits for the worst case, that is, at night, at the edge of the ROW, during rainy weather. During fair weather, noise levels are typically 25 dBA or less. Noise also decreases with distance from the ROW.

4.16 FEDERAL COMMUNICATIONS COMMISSION

Federal Communications Commission (FCC) regulations require that transmission lines be operated so that radio and television reception would not be seriously degraded or repeatedly interrupted. Further, the FCC regulations require that the operators of these devices mitigate such interference. It is expected that there would be no interference with radio, television, or other reception as a result of the proposed project (see Section 3.14, **Noise**). BPA would comply with FCC requirements relating to radio and television interference from the proposed project if any such interference occurs.

4.17 REQUIREMENTS NOT APPLICABLE TO THIS PROJECT

4.17.1 Permits for Structures in Navigable Waters

The project would not involve construction, removal, or rehabilitation of any structures in navigable waters.

4.17.2 Permits for Right-of-way on Public Lands

The proposed project would not cross land administered by another Federal agency; therefore, no permits for ROW on such lands would be required.

4.17.3 Safe Drinking Water Act

No drinking water systems would be affected by the project, and no pollutants would be expected to reach drinking water supplies.

4.17.4 Energy Conservation at Federal Facilities

Energy conservation practices are not relevant because no Federal buildings would be constructed for the proposed project.

4.17.5 Recreation Resources

BPA used the Wild and Scenic River inventory of listed and proposed rivers (16 USC Sec. 1273 (b)) qualifying for Wild, Scenic, or Recreation River to evaluate recreational resources and impacts. The corridor will not cross any listed segments.

The Northwest Power Planning Council's Protected Area Amendments to the Pacific Northwest Electric Power Planning Council Designation Act of 1980 are not applicable to the project.

No designated wilderness or other areas of national environmental concern are found on or around the ROW.

4.17.6 Farmland Protection Policy Act

The Farmland Protection Policy Act (7 USC 4201 et seq.) directs Federal agencies to identify and quantify adverse impacts of Federal programs on farmlands. The Act's purpose is to minimize the number of Federal programs that contribute to the unnecessary and irreversible

conversion of agricultural land to non-agricultural uses. The proposed project would not remove any farmland from production.

4.17.7 Notice to the Federal Aviation Administration

As part of transmission line design, BPA seeks to comply with Federal Aviation Administration (FAA) procedures. Final locations, structures, and structure heights would not be submitted to FAA for the project because no structures are taller than 200 feet above ground, and they are located outside the prescribed distances of airports listed in the FAA airport directory.